

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

TYCO FIRE PRODUCTS LP,

Plaintiff,

v.

AIU INSURANCE COMPANY, *et al.*

Defendants.

Civil Action No. 2:23-cv-02384-RMG

Hon. Richard M. Gergel

ORDER REGARDING CROSS DESIGNATION IN WISCONSIN ACTION

WHEREAS, in an Order dated October 30, 2023 (“October 30 Order”), this Court ordered “that all documents previously produced in *In Re Aqueous Film-Forming Foams Products Liability Litigation*, C.A. No. 2:18-2873 (hereafter referred to as the “MDL”), shall be deemed produced in this action and subject to the Case Management Orders of the MDL unless and until a case management order or ESI protocol is entered in this case. All future productions will also be subject to the MDL Case Management Orders unless and until superseded by orders in this case.” ECF No. 111 at ¶ 3.

WHEREAS, the October 30 Order also states that “[d]ocuments produced in the MDL that are responsive to discovery requests in this action may be produced in this action without seeking leave in the MDL or consent of the producing parties and without need to provide further bate stamp numbers.” ECF No. 111 at ¶ 9.

WHEREAS, on November 17, 2023, this Court entered the Confidentiality and Protective Order (“Confidentiality Order”). ECF 189. Among other things, the Confidentiality Order provides that, subject to other provisions therein, “[d]ocuments that were produced or filed in the MDL that are responsive to discovery requests in this action may be produced in this action without

seeking leave in the MDL or consent of the producing parties and without need to provide further Bates stamp numbers.” ECF 189 at ¶ 21.

WHEREAS, in Discovery Case Management Order No. 1 entered on November 17, 2023, the Court ordered the Parties to “use best efforts” and to “cooperate with one another to seek to ensure that all discovery in this action is cross-designated for use in the lawsuit captioned *Century Indemnity Company v. Tyco Fire Products LP*, Case No. 2022-CV-000283 (Wis. Cir. Ct. Marinette Cnty.) (the “Wisconsin Action”).” ECF 190 at ¶ 10. Discovery Case Management Order No. 1 also orders that, “[w]ith respect to documents produced or filed in the MDL Lawsuit that are responsive to discovery requests in this action, the parties shall work together to obtain any necessary court orders or consents from parties to the MDL ... prior to cross designating such materials for use in the Wisconsin Action.” *Id.*

WHEREAS, in accord with and pursuant to Paragraph 10 of Discovery Case Management Order No. 1, counsel for Tyco engaged in discussions with the Plaintiffs’ Executive Committee (“PEC”) seeking to permit the cross designation in the Wisconsin Action of documents and other discovery produced or filed in the MDL and produced by the MDL plaintiffs. As a result of such discussions, the PEC has no objection to this order.

WHEREAS, the court in the Wisconsin Action has entered a Confidentiality and Protective Order (“Wisconsin Protective Order”) that is materially identical to the Protective Order entered in this case. The Wisconsin Protective Order is attached hereto as Exhibit A. Paragraph 21 of the Wisconsin Protective Order addresses and provides for the protection of documents and other materials that were produced in the MDL, and does so in a way that is identical to Paragraph 21 of the Protective Order entered in this case.

WHEREAS, in order to effectuate the cross-designation in the Wisconsin Action of all documents produced in discovery in this case, including those from the MDL,

IT IS HEREBY ORDERED:

1. Documents that were produced or filed in the MDL that are responsive to discovery requests in this action may be produced and/or deemed produced in the Wisconsin Action without seeking leave in the MDL or consent of the producing parties and without need to provide further Bates stamp numbers.

2. All documents produced and/or deemed produced pursuant to Paragraph No. 1 shall be subject to the provisions of the Wisconsin Protective Order, including without limitation Paragraph No. 21 thereof.

AND IT IS SO ORDERED.

s/Richard Mark Gergel
Richard Mark Gergel
United States District Court

Dated: January 18, 2024

Charleston, South Carolina